

Federal Acquisition Regulation

8.705-3

supply agencies from which other Federal agencies are required to purchase certain supply items on the Procurement List.

[59 FR 67028, Dec. 28, 1994, as amended at 69 FR 34230, June 18, 2004; 73 FR 53995, Sept. 17, 2008; 74 FR 65615, Dec. 10, 2009]

8.704 Purchase priorities.

(a) The Javits-Wagner-O'Day Act requires the Government to purchase supplies or services on the Procurement List, at prices established by the Committee, from AbilityOne participating nonprofit agencies if they are available within the period required. When identical supplies or services are on the Procurement List and the Schedule of Products issued by Federal Prison Industries, Inc., ordering offices shall purchase supplies and services in the following priorities:

- (1) Supplies:
 - (i) Federal Prison Industries, Inc. (41 U.S.C. 48).
 - (ii) AbilityOne participating nonprofit agencies.
 - (iii) Commercial sources.
- (2) Services:
 - (i) AbilityOne participating nonprofit agencies.
 - (ii) Federal Prison Industries, Inc., or commercial sources.
- (b) No other provision of the FAR shall be construed as permitting an exception to the mandatory purchase of items on the Procurement List.
- (c) The Procurement List identifies those supplies for which the ordering office must obtain a formal waiver (8.604) from Federal Prison Industries, Inc., before making any purchases from AbilityOne participating nonprofit agencies.

[48 FR 42129, Sept. 19, 1983, as amended at 51 FR 19713, May 30, 1986; 56 FR 15149, Apr. 15, 1991; 59 FR 67028, Dec. 28, 1994; 69 FR 16150, Mar. 26, 2004; 73 FR 53995, Sept. 17, 2008]

8.705 Procedures.

8.705-1 General.

(a) Ordering offices shall obtain supplies and services on the Procurement List from the central nonprofit agency or its designated AbilityOne participating nonprofit agencies, except that supplies identified on the Procurement List as available from DLA, GSA, or

VA supply distribution facilities shall be obtained through DLA, GSA, or VA procedures. If a distribution facility cannot provide the supplies, it shall inform the ordering office, which shall then order from the AbilityOne participating nonprofit agency designated by the Committee.

(b) Supply distribution facilities in DLA and GSA shall obtain supplies on the Procurement List from the central nonprofit agency identified or its designated AbilityOne participating nonprofit agency.

[48 FR 42129, Sept. 19, 1983, as amended at 59 FR 67028, 67029, Dec. 28, 1994; 73 FR 53995, Sept. 17, 2008]

8.705-2 Direct-order process.

Central nonprofit agencies may authorize ordering offices to transmit orders for specific supplies or services directly to a AbilityOne participating nonprofit agency. The written authorization remains valid until it is revoked by the central nonprofit agency or the Committee. The central nonprofit agency shall specify the normal delivery or performance lead time required by the nonprofit agency. The ordering office shall reflect this lead time in its orders.

[48 FR 42129, Sept. 19, 1983, as amended at 56 FR 67136, Dec. 27, 1991; 59 FR 67029, Dec. 28, 1994; 73 FR 53995, Sept. 17, 2008]

8.705-3 Allocation process.

(a) When the direct order process has not been authorized, the ordering office shall submit a written request for allocation (requesting the designation of the AbilityOne participating nonprofit agency to produce the supplies or perform the service) to the central nonprofit agency designated in the Procurement List. Ordering offices shall request allocations in sufficient time for a reply, for orders to be placed, and for the nonprofit agency to produce the supplies or provide the service within the required delivery or performance schedule.

(b) The ordering office's request to the central nonprofit agency for allocation shall include the following information:

- (1) For supplies—Item name, stock number, latest specification, quantity, unit price, date delivery is required,

and destination to which delivery is to be made.

(2) For services—Type and location of service required, latest specification, work to be performed, estimated volume, and required date or dates for completion.

(3) Other requirements; e.g., packing, marking, as necessary.

(c) When an allocation is received, the ordering office shall promptly issue an order to the specified AbilityOne participating nonprofit agency or to the central nonprofit agency, as instructed by the allocation. If the issuance of an order is to be delayed for more than 15 days beyond receipt of the allocation, or canceled, the ordering office shall advise the central nonprofit agency immediately.

(d) Ordering offices may issue orders without limitation as to dollar amount and shall record them upon issuance as obligations. Each order shall include, as a minimum, the information contained in the request for allocation. Ordering offices shall also include additional instructions necessary for performance under the order; e.g., on the handling of Government-furnished property, reports required, and notification of shipment.

[48 FR 42129, Sept. 19, 1983, as amended at 59 FR 67029, Dec. 28, 1994; 60 FR 34737, July 3, 1995; 73 FR 53995, Sept. 17, 2008]

8.705-4 Compliance with orders.

(a) The central nonprofit agency shall inform the ordering office of changes in lead time experienced by its AbilityOne participating nonprofit agencies to minimize requests for extensions once the ordering office places an order.

(b) The ordering office shall grant a request by a central nonprofit agency or AbilityOne participating nonprofit agency for revision in the delivery or completion schedule, if feasible. If extension of the delivery or completion date is not feasible, the ordering office shall notify the appropriate central nonprofit agency and request that it reallocate the order, or grant a purchase exception authorizing acquisition from commercial sources.

(c) When an AbilityOne participating nonprofit agency fails to perform under the terms of an order, the ordering of-

fice shall make every effort to resolve the noncompliance with the nonprofit agency involved and to negotiate an adjustment before taking action to cancel the order. If the problem cannot be resolved with the nonprofit agency, the ordering office shall refer the matter for resolution first to the central nonprofit agency and then, if necessary, to the Committee.

(d) When, after complying with 8.705-4(c), the ordering office determines that it must cancel an order, it shall notify the central nonprofit agency and, if practical, request a reallocation of the order. When the central nonprofit agency cannot reallocate the order, it shall grant a purchase exception permitting use of commercial sources, subject to approval by the Committee when the value of the purchase exception is \$25,000 or more.

[48 FR 42129, Sept. 19, 1983, as amended at 56 FR 67136, Dec. 27, 1991; 59 FR 67028, 67029, Dec. 28, 1994; 73 FR 53995, Sept. 17, 2008]

8.706 Purchase exceptions.

(a) Ordering offices may acquire supplies or services on the Procurement List from commercial sources only if the acquisition is specifically authorized in a purchase exception granted by the designated central nonprofit agency.

(b) The central nonprofit agency shall promptly grant purchase exceptions when—

(1) The AbilityOne participating nonprofit agencies cannot provide the supplies or services within the time required, and commercial sources can provide them significantly sooner in the quantities required; or

(2) The quantity required cannot be produced or provided economically by the AbilityOne participating nonprofit agencies.

(c) The central nonprofit agency granting the exception shall specify the quantity and delivery or performance period covered by the exception.

(d) When a purchase exception is granted, the contracting officer shall—

(1) Initiate purchase action within 15 days following the date of the exception or any extension granted by the central nonprofit agency; and